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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,794	03/15/2001	Paul W. Romig	42445.00079	6786

30256 7590 06/04/2002

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EXAMINER

GALLAGHER, JOHN J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 06/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/8,079X

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-7 and 11-18 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-7 and 11-18 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 7
- ☒ Notice of Reference(s) Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Applicants' Preliminary Amendment, filed 15 March 2001, has been received and made of record.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 5-7, 11-12 and 15-18 are rejected under 35 U.S.C. § 102(b) as being (clearly) anticipated by Williams.

Williams discloses that it is known to apply an impervious metallic sheet or foil (e.g. Al) protective barrier layer to a permeable plastic (e.g. polyolefin) container or bottle via a process wherein the metallic layer is EITHER directly fused to the outer surface of the bottle by means of the application of heat and pressure OR wherein an interposed thermoplastic adhesive is additionally employed between the metallic layer and the outer container surface; printing may be applied directly to the metallic layer (such that it also functions as a label) or to a protective plastic (e.g. PET) layer applied thereover. (Figs. 1-2 and 5, Abstract, column 1 lines 3-7 and 51-66, column 2 lines 16-24, 52-60, 68-70 and 74-75, column 3 lines 1-5, 51-55 and 62-75, column 4 lines 1-6, 16-19,

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31-44 and 59-75, column 5 lines 1-24, column 8 lines 18-30). All of the essential limitations of these claims are held to be satisfied by this reference. Further along this line, compare the teachings of this reference with applicants' specification at page 1 lines 12-15 and 25-26, page 2 lines 5-9 and page 4 lines 27-28.

4. Claims 3-4 and 13-14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Williams. The subject matter of these claims is held to be (a) implicitly encompassed within; and (b) (therefore) readily suggested (i.e. as obvious) to those of ordinary skill in this art by, the teachings of this patentee i.e. N.B. column 1 lines 3-7 and column 8 lines 18-30.

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 and 11-18 are further rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Berger et al.

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Berger et al. disclose most similar to Williams, and further that the metallic barrier layer employed by both of these patentees is known and appreciated by this art to be impervious to the passage of liquids (under which heading inks are seen to indeed be encompassed). (Abstract, column 1 lines 11-19 and 41-45, column 2 lines 25-30 and 53-62). This reference is specifically applied for the sake of exposition, clarification and completeness, its teaching along this line also being seen to be implicitly encompassed within the Williams reference teaching. Further along this line, it is noted that prior art motivation (in the instant case, for employing a metallic barrier layer) may be different from that of applicants (or an applicant) while still supporting a conclusion of obviousness. (In re Lintner, 173 USPQ 560.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. J. Gallagher whose telephone number is (703) 308-1971. The examiner can normally be reached on M-F from approximately 8:30 A.M. to 5 P.M. The examiner can also be reached on alternate N/A.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for this Group is (703) ~~305-3599~~ ⁸⁷²⁻⁹³¹⁰.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661/0662.


JJGallagher:cdc

May 16, 2002


JOHN J. GALLAGHER
PRIMARY EXAMINER
ART UNIT 191 / 733